

87-1251

Supreme Court, U.S.

FILED

JAN 27 1988

JOSEPH F. SPANIOL, JR.
CLERK

No. _____

IN THE
SUPREME COURT OF THE
UNITED STATES
JANUARY TERM, 1988

In re:

ROBERT F. SOWELL,

PETITIONER,

PETITION FOR WRIT OF HABEAS CORPUS
TO INDIVIDUAL HONORABLE ASSOCIATE
JUSTICE, WILLIAM J. BRENNAN, JR.

FOR THE FIRST CIRCUIT

28 U.S.C.A. §§ 1651(a), 2241, 2242, 2254(a)

Robert F. Sowell
Petitioner, pro se
MCI-Cedar Junction
P.O. Box 100
So. Walpole, MA 02071

Assisted by:
Abdul Jaleel Mahdi
Inmate Paralegal

JURISDICTION

Jurisdiction of this Honorable Court is invoked pursuant Title 28 United States Code Annotated, Sections 1651(a), 2241, 2242, 2254(a); and the United States Constitution, Article 1, clause 9 (Habeas Corpus), 4th, 5th, 8th and 14th Amendments.



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Where police, prosecutors, clerks of court, with judges full and complete participation, exploited the Petitioner's illiteracy, and 'used' him as a subject for accusory and public prosecution, covering up the illegal acts by police officers, letting a drug-pusher bleed-to-death, then using forgeries of complaints and indictments, to inflict false imprisonment upon Petitioner; then, sealing off all post-conviction petitions for writ of habeas corpus, when he was informed that the trial courts never had lawful jurisdiction by using the counterfeit indictments to prosecute him.

To the Honorable Associate
Justice William J. Brennan, Jr. for
the First Circuit; Associate Justice
of the United States Supreme Court.

Petitioner, being a victim of
state lawlessness, in the manner of
being deceived by the District Att-
orney, lawyers and judges, to plea
not guilty to murder charges utter-
ed on counterfeit indictments and
gun charges, where all "officers of
the court" knew in advance that your
Petitioner is an illiterate man who
cannot read nor write, and was re-
lying upon the integrity of the state
court and attorneys' professionalism.

EXCEPTIONAL CIRCUMSTANCES of
these habeas corpus claims, met bias

judicial actions in state and federal courts, 'sealing-off, access-to-the courts, evading the claims clearly stated and supported by the law, and ignoring the Constitutions of both state and federal sovereignties, and all Acts of the United States Congress, and laws of the federal courts.

Such judicial tyranny is tantamount anarchy, and Petitioner seeks the protections of his privileges and immunities from the benefits of The Great Writ of Habeas Corpus, from this Honorable Court.

Petitioner avers that he has met the prerequisites of RULE 27.3 cited hereinafter, and request this Honorable Individual Associate Justice to take judicial cognizance of these claims and issue the Writ.

REQUISITES SATISFIED FOR
RULE 27.3

Petitioner, Robert P. Sowell, is presently incarcerated in Mass. Correctional Institution - Cedar Junction, in the Township of South Walpole, Massachusetts. He was incarcerated pursuant to a 1985 court imposed sentence for natural life, which culminated a 1983 arrest for murder, it has proven that police officers stood by and allowed a man to bleed to death before taking him to the nearby hospital, upon learning the man to be a drug pusher. But, it was discovered that the man was a close relative to a Chief Court Probation Officer, hence, police conspired and accused Petitioner of the

"murder" of the man, who died from a leg cut bleeding unattended by first aid the police officers were skilled in performing. Since the Chief Court Officer of the Probation division was deceived to believe that Petitioner was the perpetrator of his relative's death, then all post-conviction motions for New Trial and later, petitions for writs of habeas corpus in both state and federal court, has been sealed off from all fair and/or impartial access to the courts and the right to even file and/or docket petitions for habeas corpus, when learning that Petitioner's arrest and public trial was acquired on forgeries and counterfeit instruments uttered

as "application for criminal complaint" and "true bills" (murder & poss./gun).

Petitioner's reasons for addressing this petition for the Writ of Habeas Corpus to the Individual Associate Justice William J. Brennan, Jr., and not a district court in the District of Massachusetts, is due to the following reasons:

a) On October 12, 1987 Clerk of Court (Superior Court Suffolk County) refused to allow Petitioner's petition for Writ of Habeas Corpus to be filed or docketed;

b) On October 14, 1987 the same claims (forgeries of indictments, etc.) were submitted to the Clerk of the Mass. Supreme Judicial Court for

the County of Suffolk, and the Clerk there, also, refused to allow the petition to be filed and docketed, and although an argument ensued, the clerk charged \$60.00 filing fee, and Petitioner refused to pay because the Massachusetts Constitution, Part The Second, Chapter 6, Article VII states that Petitioner has "free" access to the "benefits of the writ".

c) Petitioner then filed his habeas corpus claims into the U.S. District Court for the District of Massachusetts (docketed(CA 87-2760-MA) but, in light of the fact that Petitioner had also filed a suit 42 U.S.C. sec.1983 against the ministerial clerks of state courts (CA-87-2722-T),

who sealed off access to the state courts without any court orders, but on their own volition, and conspiracy to obstruct justice. Petitioner motion for consolidation of the habeas corpus (CA 87-2760-MA) with (CA 87-2722-T), since Petitioner is illiterate and was acting pro se, with the aid of his Brother, but the U.S. District Court, refused to issue a SHOW CAUSE ORDER upon the 'state' respondent, and without any fore-warning, dismissed the petition, telling Petitioner to exhaust state remedies, in spite of the attestments in the petition proving how the clerks of state courts sealed off access to the courts.

d) Petitioner returned to the Supreme Judicial Court, and informed the clerk what the federal judge had stated (exhaust state remedies), and the clerk still refused to allow the petition to be filed or docketed unless the \$60.00 filing fees was paid, notwithstanding the fact that the clerk, when asked, could not produce any court rules stating habeas corpus fees being \$60.00. Petitioner tried using the U.S. POSTAL SERVICE via certified Mail ret.rec.req. and sent the petition in that manner; it was duly received and docketed (87-473), it was mailed on Nov.24,1987.

e) The state court refused to conform to the 15)days statutory law

in M.G.L.c.248, sec.10 and "expeditiously" (Mass.Const.P.II, c.6, art.7) make an impartial inquiry into the grounds presented for release by habeas corpus. The silence from the court and inaction in the response to numerous phone calls and pleadings from Petitioner and family members, forced Petitioner to re-file it into the U.S. District Court.

f) During the interim period in an attempt to gain access to the state court, Petitioner had filed for a TRO in his federal civil suit against the ministerial clerks (CA 87-2722-T) but the federal clerk (deputy), refused to give the motion to the federal judge; Petitioner's motion was pursuant to Rule 65(b) F.R.Civ.P. quid pro quo for

the 'state' court clerks; hence Petitioner filed a federal civil suit against the federal (deputy) clerk, under the BIVENS v. SIX UNKNOWN FED. NARCOTICS AGENTS, 91 S.Ct.1999(1971) and it was amended to (CA 87-2722-T). That federal court was already on docket with the federal petition for writ of habeas corpus and the civil suit against the ministerial clerks of the state courts.

g) The Petitioner contacted the Clerk of the U.S. Court of Appeals for the First Circuit, requesting process to compel the District Court to adjudicate and rule on the habeas corpus. The Clerk stated that no action was available in the Appeals Court until

the federal District Court ruled on the habeas corpus claims; the court ignored conforming to the Acts of Congress and the decisions of the United States Supreme Court which governs applications for writs of habeas corpus for citizens suffering lawlessness of state authorities, as is the Petitioner's case at bar.

h) The federal court never made an inquiry into Petitioner's habeas corpus claims, but instead, elected to address the civil suit to protect the clerks in their ministerial duties, by dismissing the suit on grounds that clerks are protected by immunity, Petitioner claims that the clerks were not performing acts

under "orders" from "judges", rather, repugnant to the Laws of the Land, and subjecting Petitioner to a bias "procedural maze" precluding him from federal constitutional guarantees, including evading ruling on the issues presented as "counterfeit indictment ring" in the state courts district attorneys office.

RULE 27.3 states Petitioner, among other things, must state reasons for not making application to the local district court. Petitioner now claims that his prior attempts has proven to be futile, as stated herein-above from pages 6 - thru - 16.

Court clerks and judges has made (100) days obstruction to the writ.

FACTS AND GROUNDS RELIED
UPON FOR ISSUANCE OF THE
WRIT OF HABEAS CORPUS

ROBERT F. SOWELL, the Petitioner, pro se, is presently (33) years of age, and is illiterate (he cannot read nor write). From the age of (12) years, he has been working and paying taxes into his adult years, employed in his Family's business, The LaSORDO CONSTRUCTION COMPANY.

On March 6, 1983 Petitioner had the occasion to be arrested for possession of narcotics, and the charges became moot, when Boston Police Detectives Joseph MacKinnon and Peter O'Malley, forged an application for criminal and it became the basis for

accusing the Petitioner of "murder";
one Daniel Locke.

The "truth" is that police had undisputable knowledge and evidence that one of their "informants" JAMES DOHERTY, who was also a FEDERAL INFORMANT in matters of criminal enterprises in the Boston area, was the perpetrator and whose fingerprints were on the knife which inflicted the cut on the thigh of Locke. DOHERTY was not arrested; quid pro quo policy was illegally applied by police. Instead of arresting DOHERTY they elected to accuse the Petitioner and exploit him due to his illiteracy.

In the West Roxbury District

Court, on Wednesday, April 13, 1983, under docket number 2515, Petitioner was in appearance to a probable cause hearing, and represented by JOSEPH M. FLAK, ESQ., who learned that police had conjured up a scheme to falsely claim that police officers first on the scene were being subordinated to perjury, claiming that a dying declaration made by Locke, identified Petitioner as his assailant. ATTORNEY FLAK, established on record from the sole police officer JOSEPH McLAUGHLIN who questioned Locke, and although he alluded to a dying declaration being made, he MADE OUT NO POLICE REPORTS, and he made no conversation with other detectives about a dying declaration.

McLAUGHLIN testified he believed he was dying and that he did not tell him anything about a dying declaration. The only EYEWITNESS standing close by informed the "trial court" at a later time, that the man Locke never said anything about the fact that he was "dying" as testified by police officers.

A conspiracy to convict and to imprisoned the Petitioner was enlarged by the District Attorney Newman Flanagan, for Suffolk County, Boston, Mass. filling in a printed form paper and having his assistants and others sign the "paper" and deceive the Petitioner and his Family Members to believe that a legal process of grand jury issued a "True Bills", indicting Petitioner for "murder" when in fact no such process ever took place, and no AUTH-

ENTICATION UNDER THE SEAL OF THE
COURT.

The West Roxbury District Court did not have fundamental jurisdiction over Petitioner, because counterfeit application for criminal complaint violated Gen.Law, Chapter 276, s 22, and the Suffolk County Superior Court did not have fundamental jurisdiction over Petitioner, because counterfeit indictments uttered as "true bills" violated Mass.Const.Pt.1, art.12, Pt.2, c.6, art.5; U.S.Const.4th, 5th and 14th Amendments, hence the state court did make VOID JUDGMENTS against "liberty" interest of the Petitioner.

Petitioner is entitled to Habeas Corpus release.

ARGUMENTS

Petitioner claims that he has suffered a gross miscarriage of justice, and is entitled to the benefits of The Great Writ Of Habeas Corpus, Ad-Subjiciendum.

Fruits of the Poison Tree

Doctrine was triggered in the West Roxbury District Court by the counterfeit "application for criminal complaint" forged and filed by Detective Joseph MacKinnon; that court's judgments and opinions were fruits of the illegal acts engendered from the forged instrument (docket No.2515).

The Suffolk County Superior Court's actions were also VOID JUDG-

MENTS, on the grounds that it is apparent on the face of the papers, that said "papers" were not legal-writs (indictments) without being AUTHENTICATED BY THE (NAFER) SEAL OF THE COURT FOR SUFFOLK COUNTY. See: Case Docket No.043903/8300531, June 1983, and Case Docket No.052905, April 1985.

Petitioner additionally claims that the purported "murder-in-first degree" charges on the 'indictment' actually read the statutory charge of MANSLAUGHTER (compare:G.L.c.277,s79 for definitions distinguishments).

The court deceived Petitioner, by concealing these salient facts

of fatal defects in the papers, from him, taking full and complete advantage of Petitioner's illiteracy. The defense attorney was in the conspiracy to defraud and conceal the illegalities the "Commonwealth" was inflicting upon the Petitioner and his Family Members.

The Superior Court used the case No.052905 (carrying firearms without license) purportedly 'indicting Petitioner under G.L.c.140,ss129C and 131G, which, imposes a JAIL SENTENCE of only 1 to 2 years and a half, the court sentenced the Petitioner to STATE PRISON for 3 to 5 years!

The manifold effect of forgeries

and counterfeit papers being 'uttered' as true bills and "warrants-of-commitments" to state prison, and where such "warrants" (writs) were NEVER SIGNED BY THE JUDGES OVER THE CASES, and other things of illegal script, violated all state laws and federal Constitutional guarantees and laws of the United States of America.

CONCEALMENT OF COUNTER FEITING

Making, Forging, Altering, or Counterfeiting

Petitioner claims that he learns that the word 'concealment' means to secrete, falsify, mutilate, fraudulently transfer, withhold information or knowledge required by law to be made known, or to take any action preventing discovery. Since the off

se of concealment is a continuing one,
the acts of concealment begun before,
during and after public trial.

The state and federal courts,
used the doctrines of "procedural rule"
to evade and bar Petitioner asserting
his federal rights. McCoy v. Shaw, 277
U.S. 302, 303 (1928), Holloway v. Wood-
ard, 41 CrL 2037, U.S.D.C. WNC, #ST-C-84-
200-M, habeas corpus granted.

Petitioner claims that the D.A.
was barred from prosecuting him under
the CLEAN HANDS DOCTRINE, and BRUTUM
FULMEN encompassed all judgments by
the state courts; (meaning, judgments
are VOID UPON THEIR FACES: NO LEGAL
RIGHT ARE DIVESTED NONE OBTAINABLE.

RULE 44. PROOF OF OFFICIAL RECORDS

(a) Authentication (also see Rule 40 Cr.P.)

(1) *Domestic.* An official record kept within the Commonwealth, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record, or by his deputy.

This certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office.

Rules of Criminal
Procedure have the force and effect of
law. Just as a statute, the requirements
promulgated in these Rules must be
obeyed.

See: Constitution of Massachusetts;
Part the Second, Chap. 6, Art. V.

"All writs issuing out of the Clerks
office in any of the courts of law,
shall be under the seal of the court
from whence they issue...and be sign-
ed by the clerk of such court."

SUPREME JUDICIAL COURT OF
MASSACHUSETTS

Handbook of
Massachusetts Evidence

Fifth Edition

The Seal

AUTHENTICATION OF
Indictment;

Paul J. Liacos

Associate Justice
Supreme Judicial Court
of Massachusetts



d. Official Certificates and Seals;
Statutes and Rules

The matter of official certificates and seals is considered, together with the official written statement exception to the hearsay rule, at pages 340-346. See also Best Evidence Rule, pages 367 and 370.

In regard to official certificates and seals, the pertinent rules are Mass R Civ P 44 and Fed R Civ P 44 (domestic and foreign records), Mass R Crim P 40 and Fed R Crim P 27 (same), Proposed Mass R Evid 901(b)(7) and Fed R Evid 901(b)(7) (public records or reports),

The Mass. Supreme Judicial Court ruled that the SEAL OF AUTHENTICITY and "signatures" are the "FOUNDATION" by which criminal courts have jurisdiction to bring defendants to trial and impose orders of incarceration. UNION SAVINGS BANK OF BOSTON v. CAMERON, 319 Mass Reports at 238. The State's Constitution cannot be evaded by INDIRECTION. MacALLEN Co. v. COMM. OF MASS. 279 U.S. 620, 49 S.Ct. 432.

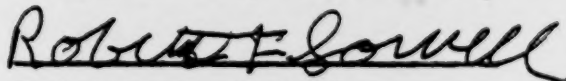
Petitioner suffers false imprisonment where no "warrant of commitment" was signed by the judge nor under the SEAL OF THE COURT. Habeas corpus petition need only set forth facts giving rise to the cause. BOUNDS v. SMITH.

97 S.Ct.1491(1977).The Bill Of Rights
guarantees him the right to petition
the courts,JOHNSON v. ZERBST,304 U.S.
458 (1938),when the trial court lost
jurisdiction BEFORE the trial BOWEN
v. JOHNSON,306 U.S.19 at 442,444,445,
446.

PRAYER FOR RELIEF

Petitioner request that this
Honorable Associate Justice, issues
The Great Writ Of Habeas Corpus Ad-
Subjiciendum, forthwith.

Respectfully submitted,



Robert F. Sowell

Petitioner Pro Se

Jan.19,1988

SUFFOLK, ss. At
the SUPERIOR COURT DEPARTMENT of the
TRIAL COURT, begun and holden at the
City of Boston, within and for the
County of Suffolk, for the transaction
of criminal business, on the first
Monday of April, in the year of our
Lord one thousand nine hundred and
eighty-five.

THE JURORS for the COMMONWEALTH OF
MASSACHUSETTS on their oath present
that

ROBERT F. SOWELL,

on the sixth day of March, in the year
of our Lord one thousand nine hundred
and eighty-three, did assault and beat
one Daniel Locke, with intent to
murder him, and by such assault and
beating did kill and murder the said
Daniel Locke.

A TRUE BILL

**Assistant District
Attorney**

**Forman of the
Grand Jury**

043903/8300531

**A true copy,
Attest:**

Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss. At
the SUPERIOR COURT DEPARTMENT of the
TRIAL COURT, begun and holden at the
City of Boston, within and for the
County of Suffolk, for the transaction
of criminal business, on the first
Monday of April, in the year of our
Lord one thousand nine hundred and
eighty-five.

THE JURORS for the COMMONWEALTH OF
MASSACHUSETTS on their oath present
that

ROBERT F. SOWELL,
on March 23, 1985, did unlawfully,
knowingly carry on his person a
certain firearm, to wit: a revolver,
from which a bullet could be
discharged, the length of the barrel
of said firearm being less than
sixteen inches, without having in
effect a license to carry firearms
issued under Sections 131 or 131F of

Chapter 140 of the General Laws of
Massachusetts and without complying
with the provisions of Section 129C
and 131G of said Chapter 140.

A TRUE BILL

Assistant District
Attorney

Foreman of the
Grand Jury